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Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSIONCARL J. KUNASEK
CHAIRMAN

SEP 12 2000

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JIM IRVIN
COMMISSIONERWILLIAM A. MUNDELL
COMMISSIONERAZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
LYXOM, INC. INC., FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
COMPETITIVE INTRASTATE TOLL
TELECOMMUNICATIONS SERVICES AS A
RESELLER, EXCEPT LOCAL EXCHANGE
SERVICES.

DOCKET NO. T-03845A-00-0141

PROCEDURAL ORDER**BY THE COMMISSION:**

On March 2, 2000, Lyxom, Inc. ("Applicant" or "Lyxom") filed with Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive intrastate toll telecommunications services as a reseller within the State of Arizona. On May 23, 2000, Lyxom filed an Affidavit of Publication indicating compliance with Commission publication requirements. On August 18, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff Report in this matter.

On August 29, 2000, the Arizona Court of Appeals, Division One, ("Court") issued its Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of the Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all public service corporations in Arizona prior to setting their rates and charges." Although that Opinion will more than likely be appealed to the Arizona Supreme Court, we are going to request FVRB information at this time to insure compliance with the Constitution should the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also are concerned that the cost and complexity of FVRB determinations must not offend the Telecommunications Act of 1996.

Pursuant to A.R.S. § 40-282, the Commission may act on an application for a Certificate to provide resold telecommunications services without a hearing, or with a hearing if one is requested by any party.

1 The Commission now issues this Procedural Order to govern the preparation and conduct of
2 this proceeding.

3 IT IS THEREFORE ORDERED that intervention shall be in accordance with A.A.C. R14-3-
4 105 except that all motions to intervene must be filed on or before September 29, 2000.

5 IT IS FURTHER ORDERED that the Applicant shall file written exceptions, if any, to the
6 Staff Report or request that a hearing be set within 60 days of the date of this Order.

7 IT IS FURTHER ORDERED that Applicant shall file its proposed FVRB within 30 days of
8 the date of this Order (pursuant to A.A.C. R14-2-103(B), this may be the same as original cost rate
9 base). The FVRB shall include the value of all plant and equipment currently held by the Applicant
10 and intended to be used to provide telecommunications services to Arizona customers. In doing so,
11 Applicant may use any reasonable means of asset allocation, direct assignment or combination
12 thereof.

13 IT IS FURTHER ORDERED that Applicant shall file a description of all plant and equipment
14 currently held by the Company and intended to be used to provide telecommunications services to
15 Arizona customers, including their cost and location, within 30 days of the date of this Order.

16 IT IS FURTHER ORDERED that Applicant shall file information demonstrating how the
17 value of the Company's plant and equipment (both current and projected) is related to its total service
18 long-run incremental costs within 30 days of the date of this Order (such demonstration must include
19 the amount of depreciation expense and capital carrying costs related to the FVRB which has been
20 incorporated into the long-run incremental costs).

21 IT IS FURTHER ORDERED that for all maximum rates and charges of Applicant which are
22 higher than those of the incumbent local exchange carrier ("ILEC") for the same regulated services,
23 Applicant must demonstrate that such rates and charges are not unreasonable, and constitute a fair
24 rate of return on FVRB (if there is more than one ILEC in your proposed service area, use Qwest
25 Corporation as a surrogate ILEC for the entire state).

26 IT IS FURTHER ORDERED that Staff shall review the FVRB information filed and ascertain
27 that Applicant is utilizing the appropriate amount of depreciation and capital carrying costs in
28 determining its total service long-run incremental costs.

1 IT IS FURTHER ORDERED that Staff or Intervenors shall file disagreements with the
2 proposed FVRB and/or rates and charges, as well as request a hearing, within 60 days of this Order.

3 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
4 pursuant to Rule 6(a) or (e) of the Arizona Rules of Civil Procedure.

5 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend or waive
6 any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

7 DATED this 11th day of September, 2000.

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10 
11 JANE L. RODDA
ADMINISTRATIVE LAW JUDGE

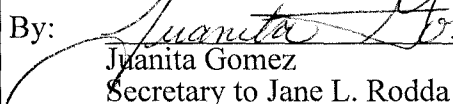
12 Copies of the foregoing mailed
13 this 11th day of September, 2000 to:

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29 By: 
30 Juanita Gomez
31 Secretary to Jane L. Rodda